THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 16558 OF 1996

DATE: 29-12-2006

Between:

1. Sanapal Narasamma and another … Petitioners

and

1. The Joint Collector cum Settlement Officer, Visakhapatnam and 15 others … Respondents

THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

WRIT PETITION NO. 16558 OF 1996

ORDER:

In this writ petition, the petitioners seek a declaration that the action of the respondents, in seeking to interfere with their peaceful possession of the land in an extent of Ac.3-00 in Sy.No.13 of Madhavadhara, Visakhapatnam, is arbitrary and illegal offending Articles 14, 21 and 300-A of the Constitution of India.

The Joint Collector-cum-Settlement Officer under the Inams Abolition Act granted patta, for an extent of Ac.3-00, in favour of the petitioners. Respondents 4 to 14 sought for pattas to be granted in their favour in an extent of Ac.7-00 in the very same survey number including the 3-00 Acres of land for which a patta had already been granted in favour of the petitioners. The claims and counter claims were adjudicated by the Joint Collector – cum-Settlement Officer under the Inams Abolition Act and, by order dated 24.6.1996, the earlier patta granted in favour of the petitioners, for an extent of Ac.3-00, was upheld. Respondents 4 to 14 filed O.S.310 of 1992 before the III Addl. Subordinate Judge's Court, Visakhapatnam wherein the petitioners herein were not arrayed as defendants. On coming to know of the said suit being filed by respondents 4 to 14 herein, the petitioners sought to implead themselves in the suit and, on their application being

dismissed, they filed C.R.P.1760 of 1996 and this Court, by order dated 21.5.1996, granted stay of all further proceedings. O.S.310 of 1992 was allowed by order dated 7.6.1996. Aggrieved thereby the petitioners herein filed A.S.162 of 1998 before the II Addl. District Judge, Visakhapatnam and the said appeal was dismissed. Aggrieved thereby the petitioners have preferred S.A.No.346 of 2000 and respondents 4 to 14 filed S.A.No.642 of 2001 and W.P.No.22517 of 1999. Both the second appeals and the writ petition were heard together and this Court, by order dated 29.7.2005, passed the following order:

"a) Second AppealNos.346 of 2000 and 642 of 2001 are dismissed. It is, however, made clear that the decree in O.S.No.310 of 1992, which now is restricted to the one for declaration about the classification of the suit schedule property and grant of injunction against the defendants therein, does not bind the 4th respondent herein, on those aspects.

b) Writ petition NO.22517 of 1999 is allowed, and the order dated 24.6.1996, passed by the second respondent, on the application submitted by the petitioners under Section 11 of the Act and those passed in the revisions filed under Sections 5 and 7 of the Act, are set aside. The matter is remanded to the second respondent, for fresh consideration, in accordance with law.

c) The second respondent shall not club or mix up the claims of any other individuals, with the application of the petitioners. It shall be dealt with, on its own merits. If it becomes necessary to examine the impact of patta granted in favour of the respondents 4 and 5, it shall be open to the petitioners to implead them in the proceedings before the second respondent.

d) Inasmuch as the application under Section 11 of the Act was filed, by the petitioners, on the strength of an order passed by this Court in W.P.No.1672 of 1992, the application shall be treated, as having been filed within the period of limitation.

The second respondent shall dispose of the proceedings within a period of six months, from the date of receipt of a copy of this order. The record, if any, received by this Court, from the second respondent, shall be transmitted, forthwith. There shall be no order as to costs."

It is submitted by Sri Ch.Samson Babu, learned counsel for the petitioners, that pursuant to the orders of this Court, the Joint Collector had passed an order upholding the petitioners' patta for an extent of Ac.3-00 of land. Learned counsel would submit that this writ petition was filed on the apprehension that the petitioners

would be evicted from their patta lands of an extent of 3-00 Acres. Learned counsel would submit that in view of final orders being passed by this Court, in S.A.346 of 2000, S.A.642 of 2001 and W.P.22517 of 1999 dated 29.7.2005, no further orders are necessary in this writ petition.

It is necessary to note that this Court had earlier passed an interim order in W.P.M.P.20344 of 1996 in W.P.No.16558 of 1996 dated 14.8.1996. Acceding to the petitioners' request, that no further orders are necessary, in effect, would mean that the earlier interim orders passed by this Court injuncting the respondents from interfering with the possession of the petitioners would be the final order in this writ petition. I am, therefore, not inclined to accede to such a request. Suffice to hold that, in view of the subsequent orders passed by this Court on 29.7.2005 and in as much as the Joint Collect is said to have passed an order upholding the patta granted in favour of the petitioners for an extent of Ac.3-00, the apprehension which may have existed at the time of filing of this writ petition, no longer survives as at present.

Leaving it open to the petitioners herein, if they are aggrieved by any action taken by the respondents at a later date, to avail such remedies as are available to them in law, this writ petition is dismissed as infructuous. No order as to costs.

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